

Eric K. Fogderude, #07086.
FLETCHER & FOGDERUDE, INC.
A Professional Corporation
5412 North Palm Avenue, Suite 101
Fresno, California 93704
Telephone: (559) 431-9710
Facsimile: (559) 431-4108

FILED

APR 24 2006

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
DEPUTY CLERK

Attorney for Defendant, DANIEL BOOBAR

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DANIEL BOOBAR,

Defendants.

CASE NO. CR-F-02-5301 OWW

SUPPLEMENTAL EXHIBITS IN
SUPPORT OF MOTION TO DISMISS OR
ALTERNATE MOTION FOR NEW TRIAL

Date: May 1, 2006

Time: 3:00p.m.

Judge: Honorable Oliver W. Wanger

The defendant, DANIEL BOOBAR, submits the following supplemental exhibits in
his Motion To Dismiss or Alternate Motion for New Trial.

12. Government's Witness List

13. Palm Beach Sheriff Office Property Receipts

14. U.S.D.C., Southern District of Florida, Order Unsealing

15. Palm Beach County State Court Subpoenas

16. Declaration of David Schiavon In Support of Motion To Dismiss

17. Discovery Exhibit, Florida State Prosecution

18. Florida State Sentencing Minute Order

19. Unapposed Motion For Concurrent Sentence and Order

1 20. Declaration of Eric K. Fogderude In Support of Motion to Dismiss

2 21. Government Letter dated March 24, 2004.

3 22. U.S. Customs Report regarding Boobar investigation.

4
5
6 DATED: April 21, 2006

Respectfully submitted,

7 /s/ Eric K. Fogderude

8 ERIC K. FOGDERUDE

Attorney for Defendant, DANIEL BOOBAR

1 MCGREGOR W. SCOTT
United States Attorney
2 JONATHAN B. CONKLIN
DAVID GAPPA
3 Assistant U.S. Attorneys
3654 Federal Building
4 1130 O Street
Fresno, California 93721
5 Telephone: (559) 498-7272

6
7
8 IN THE UNITED STATES DISTRICT COURT FOR THE
9 EASTERN DISTRICT OF CALIFORNIA
10

11 UNITED STATES OF AMERICA,) CR. F. NO. 02-5301 OWW
12)
Plaintiff,) GOVERNMENT'S WITNESS LIST
13)
v.)
14)
LLOYD ALAN EMMERSON,)
15)
Defendant,) Trial: April 20, 2004
16) Time: 10:00 a.m.
17) Courtroom: One
Honorable Oliver W. Wanger

18 The government anticipates presenting the following witnesses
19 during its case-in-chief. The government reserves its right to
20 present additional witnesses that may become necessary during its
21 case in chief, or in rebuttal to defense evidence.
22

23 //

24 //

25 //

26 //

27 //

28 //



WITNESS

EXHIBIT. SERIES

LAW ENFORCEMENT:

Mike Cassada -
Clovis Police Department

James Gentry -
Clovis Police Department

Matt McFadden -
Clovis Police Department

John Weaver -
Clovis Police Department

Mike Prado -
Special Agent - U.S. Department of Homeland Security, Fresno, CA.

John Goodson -
Special Agent - U.S. Department of Homeland Security, Fresno, CA.

Jack Watkins - U.S. Department of Homeland Security, Palm Beach
Special Agent Florida

Pat Paige
Detective - Palm Beach County, Florida, Sheriff's Office

Jackie Irwin -
Special Agent - U.S. Department of Homeland Security, Houston, TX.

Orlando Cardona -
Special Agent - U.S. Department of Homeland Security, Houston, TX.

Mark Morgan -
Harris County, Texas, Sheriff's Department

Norm Welsh -
Harris County, Texas, Sheriff's Department

Vince Battaglia -
Harris County, Texas, Sheriff's Department

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1 CUSTODIAN'S OF RECORDS:

2 Jeff Lowenberg - COR
3 Everyone's Internet

4 Lisa Maurer - COR
5 Internet America

6 COR -
7 Crown Plaza Hotel

8 COR -
9 United States Marshall's Service

10 NON-LAW ENFORCEMENT:

11 Mark Menz
12 MJ Menz and Associates

13 Angela Simmons

14 Renee Issacson

15 TESTIFYING DEFENDANTS:

16 Michael David Harland

17 Leslie Peter Bowcutt

18 Lloyd Alan Emmerson

19 DATED: April 15, 2004

Respectfully Submitted,

20 MCGREGOR W. SCOTT
21 United States Attorney

22 By
23 JONATHAN B. CONKLIN
24 Assistant U.S. Attorney
25
26
27
28

LM BEACH COUNTY SHERIFF'S OFFICE

OTHER AGENCY & CASE #

PBSO CASE #

PROPERTY RECEIPT

02-042280

3/11/02	Time 2130	Zone All	Type Case 18 / 35	LOC Number
<input type="checkbox"/> Drugs	<input type="checkbox"/> Firearms	<input type="checkbox"/> Photo Lab	<input type="checkbox"/> Stolen - Recovered	
<input type="checkbox"/> Toxicology	<input type="checkbox"/> Crime Scene	<input type="checkbox"/> Lost Property	<input type="checkbox"/> Trial	
<input type="checkbox"/> Serology/DNA	<input type="checkbox"/> Latent Prints	<input type="checkbox"/> Property of Deceased	<input type="checkbox"/> Destroy	CCUA

Report To:	Division:
Case After Processing per F.S.S. 90.91? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> To Whom

Photographed by & I.D. # Mike Gerhring

Address Where Property Recovered: 1033 Bedford Ave P.B.Q.

Name	Date	D.O.B.	Race/Sex	Address	Phone
covered by Det. PAIGE	3/11/02	-	-	HD	
ner SAME					
tim State of FL					
spect(s) Mike Harland	11/10/59	W/M		1033 Bedford Ave	

Type of Analysis Requested (attach Crime Lab Information Form)

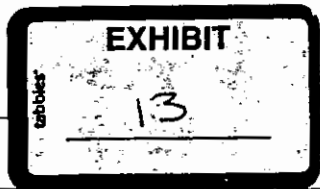
Item #	Qty.	Value	Description of Property
1	1		Dell Computer System SN# HPLD801
2	38		CD. Rom's
3	4		1.44 Floppies
4	6		Zip Disks
5	1		Western Digital Hard Drive SN# WT289352 0504
6	1		Maxtor Hard Drive SN# F603T87A
7	1		Olympus Camera SN# 126574455
8	1		11x14 Gold Framed Picture
			END

I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this receipt.

I hereby acknowledge that the above list represents all property impounded in the official performance of duty as a Law Enforcement Officer or Sheriff's Personnel as defined in F.S.S. 943.10.

Print Name: _____ I.D. # 4278 Div _____

Signature: _____



Received By	Reason	Date & Time
Det. PAIGE	Item # 8 Placed in Main Evidence	3/13/02 09
Det. PAIGE	Items 2, 3, 4 Removed for Imaging	3/19/02 11:
Det. PAIGE	Returned Items 2, 3, 4	4/9/02 14:
	TOT U.S. Customs	12/18/03 10:

LM BEACH COUNTY SHERIFF'S OFFICE

OTHER AGENCY & CASE #

PBSO CASE #

PROPERTY RECEIPT

02-042280

Date 6/19/02 Time 1415 Zone _____ Type Case 18 LOC Number _____

- | | | | |
|---------------------------------------|--|---|---|
| <input type="checkbox"/> Drugs | <input type="checkbox"/> Firearms | <input type="checkbox"/> Photo Lab | <input type="checkbox"/> Stolen - Recovered |
| <input type="checkbox"/> Toxicology | <input type="checkbox"/> Crime Scene | <input type="checkbox"/> Lost Property | <input type="checkbox"/> Trial |
| <input type="checkbox"/> Serology/DNA | <input type="checkbox"/> Latent Prints | <input type="checkbox"/> Property of Deceased | <input type="checkbox"/> Destroy |

Send Report To: _____ Division: _____

Release After Processing per F.S.S. 90.91? ☐ Yes ☒ No ☐ To Whom _____

Photographed by & I.D. # _____

Address Where Property Recovered: 14600 Starkey ROAD, Delray BCH, FL 33446

Name	Date	D.O.B.	Race/Sex	Address	Phone
Discovered by <u>Joel Crippen</u>	<u>6/19/02</u>	<u>5/11/57</u>	<u>W/M</u>	<u>14600 Starkey RD, Delray</u>	<u>499-66</u>
Owner <u>Morningstar Nursery</u>				<u>14600 Starkey RD, Delray</u>	<u>499-66</u>
Victim <u>State of FL</u>					
Suspect(s) <u>Michael Harland</u>				<u>JAIL</u>	

Type of Analysis Requested (attach Crime Lab Information Form)

Item #	Qty.	Value	Description of Property
1	1	1	MAXTOR HARD Drive SN# W8H014EA MOD# 92048D8
2	2	1	Smart media Digital Camera Disk 32MB Each
			END

I hereby acknowledge that the above list represents all property taken from my possession and that I have received a copy of this receipt.

Print Name: LU-ANN CINQUEMANI

Signature: [Signature]

I hereby acknowledge that the above list represents all property impounded in the official performance of duty as a Law Enforcement Officer or Su Personnel as defined in F.S.S. 943.10.

Print Name: PATRICK PAIGE I.D. # 4278 Div. _____

Signature: _____

Received By	Reason	Date & Time
<u>[Signature]</u>	<u>TOT US Customs</u>	<u>12/18/03 10</u>

**PALM BEACH COUNTY
SHERIFF'S OFFICE**

RIC L. BRADSHAW, SHERIFF

DETECTIVE LINDA ANDERSON
SPECIAL INVESTIGATIONS BUREAU
PHONE: (561) 688-4148

FAX: (561) 688-4125

EMAIL: Andersonl@pbso.org

FAX TRANSMITTAL COVER SHEET

To: Atty Fogderude	Fax #: 559-431-4108
From: Detective Linda Anderson	Date: April 21, 2006
Department: Special Investigations Division	Pages: 3
CC:	

☐ Urgent☐ For Review☐ Please Comment☐ Please Reply

Per your request, here is the copy of evidence log for the audio cassette tape. The other piece of paper is from hand written note stuffed in the case file. According to the note, I mailed a copy of the taped interview to S/A Prado on October 17, 2005. Please let me know the outcome of all this.

Thank you

PROPERTY RECEIPT

02-042280

Date <u>03/12/02</u>	Time <u>0100</u>	Zone <u>B21</u>	Type Case <u>Sexual battery</u>	LOC Number <u>190</u>
<input type="checkbox"/> Drugs	<input type="checkbox"/> Firearms	<input type="checkbox"/> Photo Lab	<input type="checkbox"/> Stolen - Recovered	
<input type="checkbox"/> Toxicology	<input type="checkbox"/> Crime Scene	<input type="checkbox"/> Lost Property	<input checked="" type="checkbox"/> Trial	
<input type="checkbox"/> Serology/DNA	<input type="checkbox"/> Latent Prints	<input type="checkbox"/> Property of Deceased	<input type="checkbox"/> Destroy	

Send Report To: Det. L Hebert 4460

Division: SIU

Release After Processing per F.S.S. 90.91? ☐ Yes ☐ No

□ To Whom

Photographed by & LD. #

Address Where Property Recovered:

3228 Gun Club Rd WPB


Name	Date	D.O.B.	Race/Sex	Address	Phone
Discovered by Det. L. Hebert	3/12/02	-	-	PRSO HQ	688-4148
Owner State of Florida					
Victim Emma HARLAND	11/13/95	W/F	1654 NE Silvia Ave Jensen Bch	334-331-2644	
Suspect(s) Michael ^D Harland	11/10/59	W/M	1033 Bedford Ave PPG	694-8919	
/	/	/	/	/	/

Type of Analysis Requested (attach Crime Lab Information Form)

Item #	Qty.	Value	Description of Property
1	1	-	Audio Cassette tape of Michael Harland No Further
			<i>Ch</i>

Palm Beach Sheriff's Office

Case# 82-042288
Sub# 001



I hereby acknowledge that the above ^{CROSS TAPE} ~~documents~~ ^{documents} are property taken from my possession and that I have received a copy of this receipt.

I hereby acknowledge that the above list represents all property impounded by me in the official performance of duty as a Law Enforcement Officer or Support Personnel as defined in F.S.S. 943.10.

Print Name:

Print Name: Det. Linda Hebert ID: 9460 Div: S10

Signature:

Signature:

Received By	Reason	Date & Time
James 2830	1EB	3/13/02 730
Del Henderson ⁴⁴⁶⁰	Copy tape	11/22/02 1454
Del Henderson ⁴⁴⁶⁰	Copy tape	10/17/05 @ 1128
J. J. 2242	DEB 79	10-17-05 1205

DISTRICT 5.1.0.

PAGE 1 OF 1

→ tape of interview

~~SA Prado~~ SA Prado

559-457-7214

1855 N Street #910

02-042280

Fresno Ca 93721

mailed 10/17/05 afternoon

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 02-80094-CR-MIDDLEBROOKS

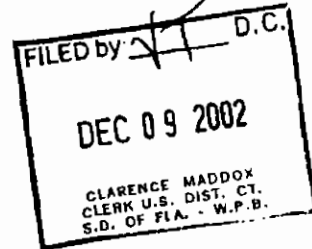
UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL DAVID HARLAND,

Defendant.

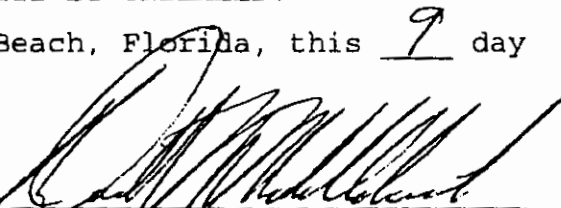


ORDER UNSEALING

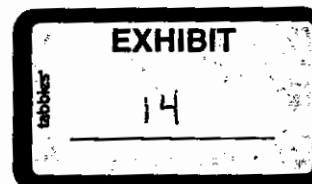
THIS MATTER having come before the Court upon the Sentencing hearing of the defendant Michael David Harland, the Court informs all parties to the above matter that the Court will be unsealing (De#45) the United States Motion for Upward Departure Under the States Sentencing Guidelines, and (DE#47) The United States Objections to the Presentence Investigation Report, the Court having reviewed said motion and being fully advised as to the facts and circumstances of this case, it is

ORDERED AND ADJUDGED that (DE#45) Government's Motion for Upward Departure with the exception of the interview of E.H. conducted just after Harlan's arrest, and the ICQ chats and computer images document, and (DE#47) Government Objections to the Presentence Investigation Report, shall be **UNSEALED**.

DONE AND ORDERED, in West Palm Beach, Florida, this 9 day of December 2002.


DONALD M. MIDDLEBROOKS
UNITED STATES DISTRICT JUDGE

cc: Lothrop Morris, AUSA
Scott Suskauer, Esq.



RA
38

I.D. #1318
PBSO

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CRIMINAL DIVISION "X"

TO: SPECIAL AGENT CRAIG
FBI
505 SOUTH FLAGLER DRIVE, SUITE 500
WEST PALM BEACH, FL 33401

CASE NO. 02CF002916A02
Police Case No. 01 02-042280
ME. No. 5

STATE OF FLORIDA
vs.
MICHAEL DAVID HARLAND

6 WK DOCKET; CALL BEFORE
APPEARING; REMAIN ON CALL

You are commanded to appear at the Palm Beach County Courthouse, 205 North Dixie Highway, COURTROOM 11F, West Palm Beach, Florida, beginning at 9:30 a.m., on 08/19/2002. **Please call (561)355-7389 (or 1-800-353-3859 if out of the area) when you receive this subpoena AND the working day before trial after 2:00 p.m. to verify time of trial.**

Failure to appear will subject you to contempt of Court. This subpoena is binding day to day and week to week until the case is closed.

Lanna Belohlavek
LANNA BELOHLAVEK
Assistant State Attorney
Fla. Bar No. 0776726

June 04, 2002

I received this subpoena on the 7 day of June, 2002, and executed the same on the _____ day of _____, 2002, in Palm Beach County, Florida.

NF 6-12-02 11:15A
SHERIFF PALM BEACH COUNTY
By: *[Signature]* 3759
Deputy Sheriff
Not Known There

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Robin Shepett, ADA Coordinator in the Administrative Office of the Court, Palm Beach County Courthouse, 205 North Dixie Highway, Room 5.2500, West Palm Beach, Florida, 33401; telephone number (561) 355-4380 within two (2) working days of your receipt of this notice; if you are hearing or voice impaired, call 1-800-955-8771.

02 JUN -7 AM 11:35
P.B.S.O.

FILED
2002 JUN 17 AM 11:35
DOROTHY H. WILKINSON
CLERK OF COURT
PALM BEACH COUNTY



I.D. #1318
PBSO

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CRIMINAL DIVISION "X"

8/15
X

TO: GROUP SUPERVISOR STEVEN WUNDERLICH
U. S. CUSTOMS
100 SOUTH DIXIE HIGHWAY
WEST PALM BEACH, FL 33401

CASE NO. 02CF002916A02
Police Case No. 01 02-042280
ME. No. 6

02 JUN -7 AM 11:25

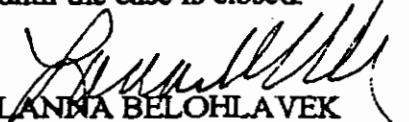
P.B.S.

STATE OF FLORIDA
vs.
MICHAEL DAVID HARLAND

6 WK DOCKET; CALL BEFORE
APPEARING; REMAIN ON CALL

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LANNA BELOHLAVEK
Assistant State Attorney
Fla. Bar No. 0776726

June 04, 2002

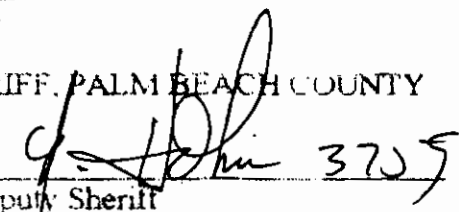
2002 JUN 14 PM 2:44
DOROTHY H. WILSON
CLERK OF COURT
PALM BEACH CO., FLA.

FILED

I received this subpoena on the 7 day of June, 2002, and executed the same on the 12 day of June, 2002, in Palm Beach County, Florida.

Richard Calenda
Agent

SHERIFF, PALM BEACH COUNTY

By:  3705
Deputy Sheriff

11:00 A

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Robin Shepett, ADA Coordinator in the Administrative Office of the Court, Palm Beach County Courthouse, 205 North Dixie Highway, Room 5.2500, West Palm Beach, Florida, 33401; telephone number (561) 355-4380 within two (2) working days of your receipt of this notice; if you are hearing or voice impaired, call 1-800-955-8771.

I.D. #1318
PBSO

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CRIMINAL DIVISION "X"

TO: SPECIAL AGENT JACK WATKINS
US CUSTOMS
100 SOUTH DIXIE HIGHWAY
PALM BEACH GARDENS, FL 33410

Try to WPB

STATE OF FLORIDA
vs.
MICHAEL DAVID HARLAND

CASE NO. 02CF002916A02
Police Case No. 01 02-042280
ME. No.

N

2

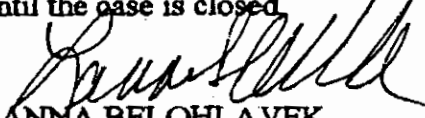
6 WK DOCKET; CALL BEFORE
APPEARING; REMAIN ON CALL

P.B.S.O.

02 JUN -7 AM 11:25

You are commanded to appear at the Palm Beach County Courthouse, 205 North Dixie Highway, COURTROOM 11F, West Palm Beach, Florida, beginning at 9:30 a.m., on 08/19/2002. Please call (561)355-7389(or 1-800-353-3859 if out of the area) when you receive this subpoena AND the working day before trial after 2:00 p.m. to verify time of trial.

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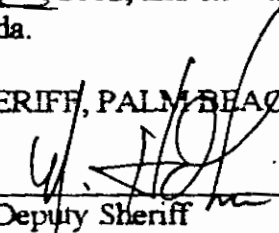

LANNA BELOHLAVEK
Assistant State Attorney
Fla. Bar No. 0776726

June 04, 2002

2002 JUN 14 PM 2:41
COROTHY H. VILKINSON
CLERK OF COURT
PALM BEACH CO., FL.

FILED

I received this subpoena on the 7 day of June, 2002, and executed the same on the 12 day of June, 2002, in Palm Beach County, Florida.

Richard Calenda
Agent
By: 
Deputy Sheriff
11:02A

SHERIFF, PALM BEACH COUNTY

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Robin Shepett, ADA Coordinator in the Administrative Office of the Court, Palm Beach County Courthouse, 205 North Dixie Highway, Room 5.2500, West Palm Beach, Florida, 33401; telephone number (561) 355-4380 within two (2) working days of your receipt of this notice; if you are hearing or voice impaired, call 1-800-955-8771.

ID. #13
PERSON

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CRIMINAL DIVISION "X"

8/15
f

TO: SPECIAL AGENT GREG STEIN
US CUSTOMS
100 S. DIXIE HIGHWAY
WEST PALM BEACH, FL 33401

CASE NO. 02CF002916A02
Police Case No. 01 02-042280
ME. No.

3

6 WK DOCKET; CALL BEFORE
APPEARING; REMAIN ON CALL

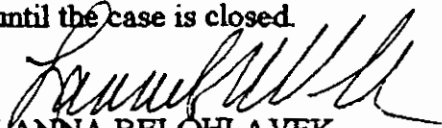
02 JUN -7 AM 11:25

P.B.O.

STATE OF FLORIDA
vs.
MICHAEL DAVID HARLAND

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LANNA BELOHLAVEK
Assistant State Attorney
Fla. Bar No. 0776726

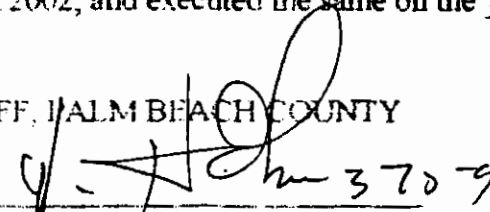
DOOROTHY H. WILSON
CLERK OF COURT
PALM BEACH COUNTY, FL.

2002 JUN 14 PM 2:41

FILED

June 04, 2002

I received this subpoena on the 7 day of June 2002, and executed the same on the 12 day of June 2002, in Palm Beach County, Florida.

SHERIFF, PALM BEACH COUNTY
Richard Calenda
Agent
By:  3709
Deputy Sheriff
11:01A

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Robin Shepett, ADA Coordinator in the Administrative Office of the Court, Palm Beach County Courthouse, 205 North Dixie Highway, Room 5.2500, West Palm Beach, Florida, 33401; telephone number (561) 355-4380 within two (2) working days of your receipt of this notice; if you are hearing or voice impaired, call 1-800-955-8771.

I.D. #1318
P.S.O.

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CRIMINAL DIVISION "X"

TO: SPECIAL AGENT MARTIN RUIZ DE GAMBOA
FBI
505 SOUTH FLAGLER DRIVE, SUITE 500
WEST PALM BEACH, FL 33401

CASE NO. 02CF002916A02
Police Case No. 01 02-042280
ME. No.

02 JUN -7 AM 11:25
P.S.O.

STATE OF FLORIDA
vs.
MICHAEL DAVID HARLAND

6 WK DOCKET, CALL BEFORE
APPEARING, REMAIN ON CALL

You are commanded to appear at the Palm Beach County Courthouse, 205 North Dixie Highway, COURTROOM 11F, West Palm Beach, Florida, beginning at 9:30 a.m., on 08/19/2002. Please call (561) 355-7389 (or 1-800-353-3859 if out of the area) when you receive this subpoena AND the working day before trial after 2:00 p.m. to verify time of trial.

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LANNA BELOHLAVEK
Assistant State Attorney
Fla. Bar No. 0776726

June 04, 2002

I received this subpoena on the 7 day of June, 2002, and executed the same on the 12 day of June, 2002, in Palm Beach County, Florida.

SHERIFF, PALM BEACH COUNTY

M. Rente
Sec 11:15 A

By: [Signature] 3709
Deputy Sheriff

If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact Robin Shepett, ADA Coordinator in the Administrative Office of the Court, Palm Beach County Courthouse, 205 North Dixie Highway, Room 5.2500, West Palm Beach, Florida, 33401; telephone number (561) 355-4380 within two (2) working days of your receipt of this notice; if you are hearing or voice impaired, call 1-800-955-8771.

FILED
JUN 14 PM 2:41
JEROME H. WILSON
CLERK OF CIR. & CO. CLERK
PALM BEACH CO. FL.

Eric K. Fogderude, #070860
FLETCHER & FOGDERUDE, INC.
A Professional Corporation
5412 North Palm Avenue, Suite 101
Fresno, California 93704
Telephone: (559) 431-9710
Facsimile: (559) 431-4108

Attorney for Defendant, DANIEL BOOBAR

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DANIEL BOOBAR,

Defendants.

CASE NO. CR-F-02-5301 OWW

DECLARATION OF DAVID SCHIAVON
IN SUPPORT OF MOTION TO DISMISS

Date: May 1, 2006

Time: 3:00p.m.

Judge: Honorable Oliver W. Wanger

I David Schiavon do declare,

1. I am a private licensed investigator in the State of California and I was retained as the investigator for Defendant Daniel Boobar.

2. I was recently requested by Mr. Boobar's attorney to investigate certain factual representations set forth in the declaration of Mike Prado and Mike Cassida concerning their unsuccessful efforts to locate before the Boobar trial the Palm Beach Sheriff's Office reports and audio tape related to Michael Harland's arrest confession.

3. Between the dates of April 13, - April 21, 2006, I contacted by telephone the below listed persons regarding the PBSO reports and audio tape related to Harland's arrest confession. During each conversation, I identified myself as an investigator working on behalf of Defendant Boobar.

4. I interviewed with Lonna Belohlavek, the Florida State prosecutor who handled the state prosecution of Harland which resulted from this U.S. Customs, FBI,

EXHIBIT

16

1 Palm Beach Sheriff's Office joint investigation.

2 She confirmed that her office file contained a copy of the Palm Beach Sheriff's
3 Office reports, the Harland audio tape and the video tape interview of Harland's
4 daughter, made by state child protective services. She confirmed that the Florida U.S.
5 Customs and FBI were fully aware of her prosecution as she subpoenaed the five special
6 agents who were involved in the Harland investigation.

7 5. I also interviewed Palm Beach Sheriff Office Detective Linda Anderson, formerly
8 Hebert, who wrote the Palm Beach Sheriff's Office report related to Harland's arrest and
9 confession. She advised that all evidence seized as a result of the joint investigation was
10 booked with the Palm Beach Sheriff's Office, with the exception of the video interview of
11 Harland's daughter. That tape was booked or retained by another State agency, the
12 Family-Child Protective Unit.

13 Detective Anderson advised that had any of the Federal agencies involved in the
14 joint investigation, or any Federal prosecutor requested the reports or evidence held by
15 Palm Beach Sheriff's Office, it would have been provided. Her review of the property
16 booking receipts shows that the U.S. Customs did check some of the evidence booked on
17 December 18, 2003, but did not request a copy of the audio tape until October 17, 2005,
18 when it was provided. Detective Anderson provided a copy of the property receipt.

19 6. I also interviewed Palm Beach Sheriff's Office Detective Paige. He advised that
20 his first recollection of being asked whether Palm Beach Sheriff's Office had an audio tape
21 and/or reports of the Harland interview was when he was contacted by U.S. Customs
22 Agent Prado on or about October 17, 2005. In response to that request, Detective
23 Anderson was requested to provide a copy of the tape and it was immediately forwarded
24 to Mr. Prado.

25 7. I have attempted to contact U.S. Customs Special Agent Watkins and AUSA
26 Morris Lastrop, but to date have been unable to speak with them.

27 ///

28 ///

1 8. I know it is a crime under California and federal laws to make a false statement
2 in a judicial proceeding.

3
4 DATED: April 21 , 2006

Respectfully submitted,

5
6 /s/ David Schiavon

7
8 DAVID SCHIAVON, Investigator

IN THE CIRCUIT COURT OF THE FIFTEENTH
JUDICIAL CIRCUIT, CRIMINAL DIVISION
IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO. 02CF002916A02 DIVISION "X"

STATE OF FLORIDA

vs.

MICHAEL DAVID HARLAND


DISCOVERY EXHIBIT (ANSWER TO NOTICE OF
DISCOVERY); DEMAND FOR RECIPROCAL
DISCOVERY EXHIBIT AND
DEMAND FOR NOTICE OF ALIBI

FILED
2002 APR -4 AM 11:50
CIR. & CO. CT. CL.
PALM BEACH CO. FL.

The State of Florida, by and through the undersigned Assistant State Attorney, hereby responds to the Notice of Discovery made on behalf of the Defendant, pursuant to Rule 3.220(a)&(b), Florida Rules of Criminal Procedure, and gives notice that all information and material as defined by Rule 3.220(a), Florida Rules of Criminal Procedure, within the State's possession or control has been disclosed to the Defendant by providing copies of all reports and statements in the State Attorney's file to the Attorney for the Defendant. The State hereby demands a Reciprocal Discovery Exhibit and all disclosure required by the Defendant, pursuant to Rule 3.220(a)(c)&(d), Florida Rules of Criminal Procedure. Further, the State hereby demands Notice of Alibi pursuant to Rule 3.200, Florida Rules of Criminal Procedure.

The Attorney for the Defendant, SCOTT L. SUSKAUER, ESQUIRE, is hereby granted permission to inspect, copy, test, and photograph the information and material described within the documents attached to this answer, or which is being held in the custody of the investigating law enforcement agency, if prior notice has been given to the undersigned of any such inspection, copying, testing, or photographing.

Respectfully submitted,


LARINA BELOHLAVEK
Assistant State Attorney
Florida Bar Number: 0776726



RAB

Defendant's Name : MICHAEL DAVID HARLAND

Number : 02CF002916A02

ALL WITNESSES AND EVIDENCE LISTED IN REPORTS PROVIDED

**PERSONS KNOWN TO HAVE
INFORMATION**

EVIDENCE LIST

WITNESS CATEGORY A

PHOTOGRAPHS

SPECIAL AGENT CRAIG
FBI
505 SOUTH FLAGLER DRIVE, SUITE 500
WEST PALM BEACH, FL 33401

DEFENDANT'S CONFESSION

CONSENT TO SEARCH FORM

DS JOHN C. DANDREA #3186
PALM BEACH COUNTY SHERIFFS OFFICE
3228 GUN CLUB ROAD
WEST PALM BEACH, FL 33406

DEFENDANT'S TAPED CONFESSION

VIDEO TAPE

DELL DIMENSION 8100 COMPUTER SYSTEM

MS LYNDIA DAVIES
C/O CHILD PROTECTION TEAM
2840 6TH AVENUE, SOUTH
LAKE WORTH, FL 33461

MAXTOR HARD DRIVE

WESTERN DIGITAL HARD DRIVE

DS MICHAEL GEHRING #2342
PALM BEACH COUNTY SHERIFFS OFFICE
3228 GUN CLUB ROAD
WEST PALM BEACH, FL 33406

OLYMPUS DIGITAL CAMERA

11X14 FRAMED PICTURE

SEARCH WARRANT

DS CAROL A. GREGG #4381
PALM BEACH COUNTY SHERIFFS OFFICE
3228 GUN CLUB ROAD
WEST PALM BEACH, FL 33406

FLOPPY DISKETTES

CD-ROMS

ZIP DISKS

DS LINDA L. HEBERT #4460
PALM BEACH COUNTY SHERIFFS OFFICE
3228 GUN CLUB ROAD
WEST PALM BEACH, FL 33406

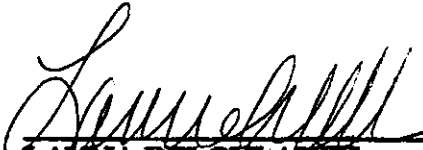
CPL PATRICK PAIGE #4278
PALM BEACH COUNTY SHERIFFS OFFICE
3228 GUN CLUB ROAD
WEST PALM BEACH, FL 33406

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED by the undersigned that a true and correct copy of the foregoing Discovery Exhibit (Answer to Notice of Discovery); Demand for Reciprocal Discovery Exhibit; and Demand for Notice of Alibi has been furnished by hand/mail/bin to the Attorney for the Defendant.

NAME: SCOTT L. SUSKAUER ESQUIRE

on this, the 3rd day of April, 2002.


LANNA BELOHLAVEK
Assistant State Attorney
Florida Bar Number: 0776726

NO.: 02002916CF A02 ST. OF FL. VS. MICHAEL DAVID HARLAND
 GES: #1. SEXUAL BATTERY ON PERSON LESS TH #2. ATTEMPTED SEXUAL BATTERY ON A
 PROMOTING SEXUAL PERFORMANCE BY A CH #4. PROMOTING SEXUAL PERFORMANCE BY A C
 PROMOTING SEXUAL PERFORMANCE BY A CH #6. PROMOTING SEXUAL PERFORMANCE BY A C
 PROMOTING SEXUAL PERFORMANCE BY A CH #8. PROMOTING SEXUAL PERFORMANCE BY A C
 PROMOTING SEXUAL PERFORMANCE BY A CH #10. PROMOTING SEXUAL PERFORMANCE BY A C
 PROMOTING SEXUAL PERFORMANCE BY A CH #12. PROMOTING SEXUAL PERFORMANCE BY A C
 PROMOTING SEXUAL PERFORMANCE BY A CH #14. PROMOTING SEXUAL PERFORMANCE BY A C
 PROMOTING SEXUAL PERFORMANCE BY A CH #16. PROMOTING SEXUAL PERFORMANCE BY A C
 PROMOTING SEXUAL PERFORMANCE BY A CH #18. PROMOTING SEXUAL PERFORMANCE BY A C
 PROMOTING SEXUAL PERFORMANCE BY A CH #20. ADDITIONAL CHARGES FOR THIS CA
 EST# 2002310222 BOND# TYPE \$.00 A/C

Date 02/13/03 Judge *Rapp* Crt. Rep. *A. Cericola*
 ASA *D. Belohlavek* DC *KH* Idt *S. Sustan*
 Deft. Pres / Not Pres. W / W/O Def. Co. Esc / PD - Pres / Not Pres.
 PLEA CONFERENCE

Before the Court for:
☐ Granted ☐ Denied ☐ With / Without Prejudice ☐ Withdrawn ☐ Court Reserves Ruling ☐ Written Order to Follow

☐ Warrant ☐ Ordered ☐ Recalled ☐ Bond Set at \$ ☐ See Below ☐ Also Covers ☐ Sp Cond
☐ Bond Forf ☐ OR: Disch / Revoked / Reinstated ☐ Bond: Disch / Revoked ☐ SOR: Disch / Revoked / Reinstated
☐ Bond Forf Vacated ☐ Previous Bond Reinstated, if Bondsman agrees ☐ State failed to file charges ☐ Released O.R. / S.O.R.

☐ Deft Indigent ☐ PD Appt ☐ Hrg only PD Pres ☐ Court Appts
 Evaluation for: ☐ Drug Farm ☐ DOC Non-Secure Bed by ☐ w/input from DJJ / Staffing
☐ Pre-Plea ☐ PSI ordered by/within days ☐ Referred to: PTI / SAAP / PADD ☐ Case placed on the absentee docket

DEFT ENTERED A PLEA OF: ☐ NOT GUILTY ☒ GUILTY ☐ NO CONTEST ☐ BEST INTEREST ☐ TO THE COURT
 As Charged Cts *2-5, 7-8, 12-13, 15-19, 24, 27, 28* Lesser Cts *1* Lesser Charge *Att. Sex. Btt Person*

☒ Sw & Test ☒ Adv of Rts ☒ Waived PSI *27, 28* Lesser Cts *1* Lesser Charge *Att. " " "*

☒ ADJ GUILTY as Charged as to Cts *2-5, 7-8, 12-13, 15-19, 24, 27, 28* Lesser Cts *1* Lesser Charge *Att. " " "*

☐ FOUND GUILTY as Charged as to Cts *27, 28* Lesser Cts *1* Lesser Charge *Att. " " "*

☐ ADJ W/HELD as to Cts ☐ SENT W/HELD as to Cts

☐ FOUND AND ADJUDICATED DELINQUENT as to Cts ☐ Dispo Order to follow / Filed

☐ FOUND & ADJ NOT GUILTY as to Cts ☐ Dismiss ☒ Nolle Prose Cts *6, 9, 10, 11, 14, 20-23*

Prob / Comm Control: ☐ Revoked ☐ Reinstated ☐ Modified ☐ Term. Successfully / Unsuccessfully *25, 26, 2*

☐ Deft. to pay fine or complete hrs. Community Service or Serve days PBCJ.

☐ Stip/Found: (violent) Habitual Off. 775.084 ☒ Stip/Found Sexual Offender / Sexual Predator ☐ Stip/Found: P.R.R.

SENTENCE: PBCJ: Cts: *25 yrs* / DOC: *1-2* Cts: *3, 4, 5, 7, 8, 12, 13*

PBCJ: Cts: *15 yrs* / DOC: *15 yrs* Cts: *15, 19, 24, 27, 28*

☒ W/Credit for *339* Days / Mos. / Yrs. ☐ Deft Remanded ☐ Deft to remain on same rel. status pending sent.

Cont / Consec / Co-Term w/cases / cts: *1, 2, 3, 4, 5, 7, 8, 12-13, 15-19, 24, 27, 28*

+ conc. w/ any federal sentence

☐ Execution of Sentence Stayed ☐ Sentence Suspended ☐ Time served as to Cts

☐ Youthful Off ☐ Habitual Off ☐ Min / Mand: as to Cts

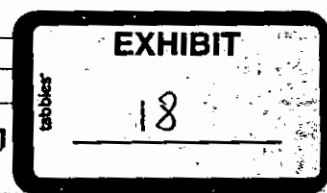
☐ ABOVE SENTENCE TO BE FOLLOWED By: ☐ Probation ☐ Drug Off Prob ☐ Comm. Control ☐ I ☐ II - See Page 2

Deft. to remain in County jail for 2 wks until transported to DOC

Set / Remains Set / Reset Div Rm at AM/PM

Set / Remains Set / Reset Div Rm at AM/PM

☐ Deft sign ☐ Def Co ☐ ASA ☐ Prob ☐ Jail ☐ DJJ ☐ GAL ☐ County Courthouse ☐ Courtroom, Criminal Justice Bldg. ☐ Justice Complex
 205 N. Dixie, West Palm Beach 38844 State Road 80, Belle Glade Palm Beach



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-80094-CR-MIDDLEBROOKS/JOHNSON

UNITED STATES OF AMERICA,

Plaintiff

vs.

MICHAEL DAVID HARLAND,

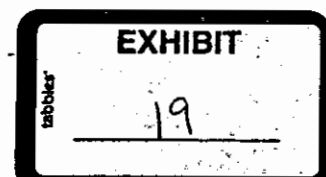
Defendant

CLERK OF COURT
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
APR 24 2006
11:03 AM
✓

UNOPPOSED MOTION FOR CONCURRENT SENTENCE

COMES NOW, the Defendant, by and through undersigned counsel and hereby moves this Honorable Court to enter an order that the Defendant's 18-year Federal sentence from this Court run concurrently with a 25-year State sentence from Palm Beach County Circuit Court. As grounds therefore the following is stated:

1. On December 6, 2002, this Court sentenced the Defendant to 18 years in prison on the above-styled cause.
2. On February 13, 2003, this Defendant, as a result of a negotiated plea agreement under Palm Beach County Circuit Court Case Number 02-2916CF A02, was sentenced to 25 years State prison, concurrent with any federal sentence. Both state and federal cases flow from the same set of facts or conduct.
3. The undersigned defense counsel contacted John Gaither, a "concurrency expert" with the Federal Bureau of Prisons in Atlanta. Mr. Gaither has informed undersigned counsel that since the Defendant was first charged in State Court, it is expected that the Defendant will serve his time in State prison before going to the Federal Bureau



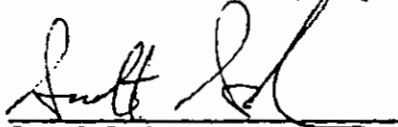
of Prisons. In order that these sentences not run consecutively, Mr. Gaither indicates that it is necessary for this Court to enter an order reflecting that the Defendant's Federal sentence run concurrently with the State sentence. Additionally, that order should state that the Defendant be designated to serve his Federal sentence while in State custody.

4. Assistant United States Attorney Lothrop Morris has no objection to this motion and proposed order as long as it is made clear that if the Defendant somehow served less than 18 years on his State sentence, that he would be remanded to Federal custody to complete his 18-year Federal sentence.

WHEREFORE, the Defendant respectfully requests the granting of this motion.

Respectfully submitted,

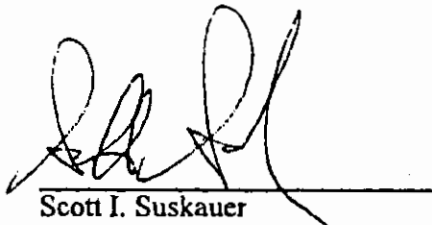
SCOTT I. SUSKAUER, ESQUIRE



Scott I. Suskauer
Attorney for the Defendant
Florida Bar No. 0776475
1601 Forum Place, Suite 1200
West Palm Beach, FL 33401
Telephone: (561) 687-7866; Fax: (561) 688-0581

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed this 19th day of February, 2003, to Assistant United States Attorney Lothrop Morris, 500 Australian Avenue S., Suite 400, West Palm Beach, FL 33401.



Scott I. Suskauer

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-80094-CR-MIDDLEBROOKS/JOHNSON

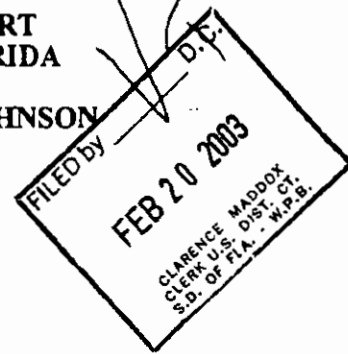
UNITED STATES OF AMERICA,

Plaintiff

vs.

MICHAEL DAVID HARLAND,

Defendant



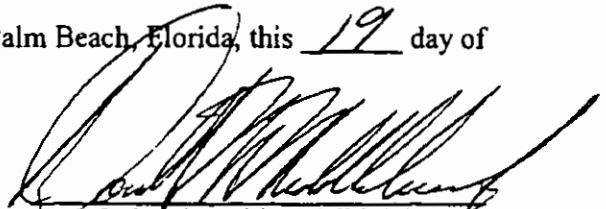
**ORDER REQUIRING FEDERAL SENTENCE TO RUN CONCURRENTLY WITH
STATE SENTENCE AND FOR FEDERAL SENTENCE TO BE SERVED WHILE IN
STATE CUSTODY OR SERVING STATE SENTENCE**

THIS COURT, having reviewed the Unopposed Motion by defense counsel and the United States Attorney's Office, hereby orders as follows:

1. The Defendant MICHAEL HARLAND's 18-year Federal sentence under the above-styled cause be served concurrently with Palm Beach County Circuit Court sentence under Case Number 02-2916CF A02, which is a 25-year sentence.
2. The Defendant is designated to serve his Federal sentence in State custody, so that his Federal sentence may be served while he is in State custody serving his State sentence in Florida.
3. If the Defendant serves less than 18 years of his 25-year State sentence in prison in the Florida Department of Corrections, the Defendant shall be remanded to the Federal Bureau of Prisons to complete his Federal sentence.

DONE AND ORDERED in Chambers at West Palm Beach, Florida, this 19 day of

February, 2003.


Hon. Judge Donald M. Middlebrooks
United States District Judge

Copies furnished to:

Scott I. Suskauer, The Suskauer Law Firm, P.A., 1601 Forum Place, Suite 1200, West Palm Beach, FL 33401
Lothrop Morris, Office of the United States Attorney, 500 Australian Avenue South, Suite 400, West Palm Beach, FL 33401

John Gaither, Federal Bureau of Prisons, 3800 Camp Creek Parkway, SW, Building 2000, Atlanta, GA 30331-6226

U.S. Probation
U.S. Marshals
Bureau of Prisons

RA
62

Eric K. Fogderude, #070860
FLETCHER & FOGDERUDE, INC.
A Professional Corporation
5412 North Palm Avenue, Suite 101
Fresno, California 93704
Telephone: (559) 431-9710
Facsimile: (559) 431-4108

Attorney for Defendant, DANIEL BOOBAR

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DANIEL BOOBAR,

Defendants.

CASE NO. CR-F-02-5301 OWW

DECLARATION OF ERIC K. FOGDERUDE
IN SUPPORT OF MOTION TO DISMISS

Date: May 1, 2006

Time: 3:00p.m.

Judge: Honorable Oliver W. Wanger

I Eric K. Fogderude do declare,

1. I am an attorney duly licensed to practice before the Federal and State Courts located in the State of California and I am the attorney of record for the Defendant Daniel Boobar.

2. After receiving the Declarations of U.S. Customs Special Agent Prado and Clovis Police Department Detective Cassida, attached as Exhibits B and C to the governments opposition memorandum, I instructed investigator Dave Schiavon to attempt to verify certain facts contained therein related to their unsuccessful attempts to locate before trial the Palm Beach Sheriff's Office reports and audio tape related to the Harland confession.

3. I personally telephoned Assistant Public Defender Lori Barrist, who was one of two attorneys who represented Mr. Harland during his Florida Federal Prosecution. On April 17, 2006, she agreed to order her file from the achieves. On April 19, 2006, she advised me that she had reviewed the file and confirmed that it contained the Palm Beach

EXHIBIT

tabbies

20

1 Sheriff's Office reports, audio tape and video tape. She recalled receiving these items
2 from Harland's state attorney, Scott Suskauer. During all of my conversations, I identified
3 myself as Defendant Boobar's attorney.

4 4. I have made several attempts to speak with Mr. Suskauer, but to date I have
5 been unsuccessful.

6 5. I have also made in excess of 6 telephone attempts to contact Attorney Ron Sawl
7 concerning his knowledge of which have been referred to as Emmerson Lists 1 and 2, but
8 to date, he has not returned my call.

9 6. Prior to trial of this case, I was not provided a copy of the Palm Beach Sheriff's
10 Office report or the audio tape of Harland's confession. Had I had the benefit of that
11 discovery, it would have affected the trial strategy I used in the case and my cross-
12 examination of Mr. Harland. I would also have made motions to exclude admission of
13 Government Exhibits 16.1 - 16.23, suppress or strike the testimony of Harland and strike
14 or suppress the introduction of the Harland chat logs. I believe the outcome of the trial
15 could have been different, if this evidence was timely provided.

16 7. Regarding the documents referred to as Emmerson List 1 and Emmerson List 2, I
17 was not provided a copy of either list/document until after the trial.

18 The information on these lists was substantially different from the information set
19 forth on the U.S. Customs Report attached as Government Exhibit E, which report I was
20 provided on the eve of trial. As set forth in the accompanying brief, the report provided
21 as Jenck did not specifically state who Emmerson named, however other Jencks reports
22 reflected that Boobar's name aka Loltot, along with other named co-defendants surfaced
23 after Emmerson began to cooperate after his arrest. In reliance that the government
24 represented that all reports had been disclosed, it appeared that full disclosure had been
25 made.

26 After the trial the Emmerson List # 1 and # 2 were provided. List # 1 provided s
27 specific names of individuals whom Emmerson associated with his child porn production
28 activities and List # 2, provided the same information, only it was apparently personally

1 drafted by Emmerson.

2 Had I been provided these lists before trial, I would have conducted my
3 examination of Emmerson differently and I would have rebutted the governments
4 attempt to impeach their own cooperating witness, when he testified favorably for
5 Boobar. I would also have made a motion to strike and/or suppress the admission of the
6 Government's exhibit series 1.1 - 1.28, on the basis of Brady violations and possibly other
7 basis.

8 Had the Emmerson Lists # 1 and # 2 been timely provided, I would introduced
9 them and or their subject matter into evidence on behalf of Mr. Boobar. I believe the jury
10 may have reached a different result had this evidence been provided.

11 8. During the course of the trial, it was revealed during cross-examination of Sgt.
12 Mike Cassida that a taped interview of Emmerson had been made in preparation
13 for the upcoming trials, including Boobar. Because no formal reports have been provided
14 of government trial preparation of their witnesses Harland or Emmerson, for the Boobar
15 trial a request for the tape was made. The witness later returned and testified that the
16 tape was either lost and/or destroyed. The declarations filed by S.A. Prado and Clovis
17 P.D. Detective Cassida in response to this motion, still fails to address this mysterious
18 anomaly.

19 9. I know it is a crime under California and federal laws to make a false statement
20 in a judicial proceeding.

21
22 DATED: April 21 , 2006

Respectfully submitted,

23
24 /s/ Eric K. Fogderude

ERIC K. FOGDERUDE

Attorney for Defendant, DANIEL BOOBAR



United States Attorney
Eastern District of California

Federal Building, Room 3654
United States Courthouse
1130 O Street
Fresno, California 93721

559/498-7272
Fax 559/498-7432

March 25, 2004

Katherine Hart
Roger Litman
Gary Huss
Dale Blickenstaff
Eric Fogderude

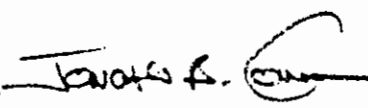
RE: Jenck's Act Production

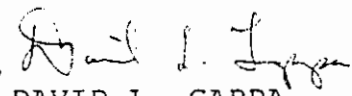
Dear Counsel:

Enclosed please find Jencks Act statements for your particular defendant. Please note that each counsel listed above is being provided Jencks Act statements for their individual clients. I encourage you to contact each of those attorneys if you desire to obtain the Jencks Act material provided to them by the government. If you are unable to obtain such material as suggested, please contact this office and arrangements will be made to provide you with the material.

As with the government's exhibits previously made available to you, the government reserves its right to use any witness statements, including those of individual defendant's, to prove the charged conspiracy. You are hereby notified that the government anticipates that numerous defendants, including but not limited to defendant Emmerson, will testify during the trial.

McGregor W. Scott
United States Attorney

By, 
JONATHAN B. CONKLIN
Assistant U.S. Attorney

By, 
DAVID L. GAPPA
Assistant U.S. Attorney

EXHIBIT

21

REQUESTED BY: PRADO, MICHAEL G

O F F I C I A L U S E O N L Y

DEPARTMENT OF THE TREASURY UNITED STATES CUSTOMS SERVICE				1. TECS ACCESS CODE 3.	
R E P O R T O F I N V E S T I G A T I O N				2. PAGE 1	
				3. CASE NUMBER HO07QS02HO0023	
4. TITLE: BOOBAR, DANIEL					
5. CASE STATUS: INIT RPT					
6. REPORT DATE 091002	7. DATE ASSIGNED 082202	8. CLASS 1	9. PROGRAM CODE 684	10. REPORT NO. 001	
11. RELATED CASE NUMBERS:					
12. COLLATERAL REQ:					
13. TYPE OF REPORT: INVESTIGATIVE FINDINGS					
TOPIC: SEARCH WARRANT FOR DANIEL BOOBAR					

14. SYNOPSIS:

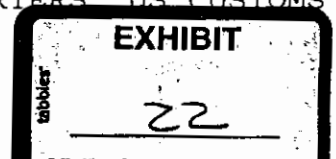
On August 21, 2002, the Harris County Sheriff's Department, in conjunction with the Clovis California Police Department requested the assistance of the Office of the Special Agent in Charge, Houston, Texas (SAIC/HO) regarding the investigation, and execution of a search warrant of Daniel BOOBAR, an individual suspected of the sexual exploitation of children.

SAIC/HO coordinated with Detective Mark Morgan of the Harris County Sheriff's Department, and subsequently a state search warrant was obtained and executed. The details of this investigation are contained within this report.

15. DISTRIBUTION: SACHO	16. SIGNATURE: IRWIN JACQUELINE A SPECIAL AGENT	
	17. APPROVED: MORGAN WILLIAM OI GRP SUPERVISOR	
	18. ORIGIN OFFICE: HO HOUSTON - SAC	19. TELEPHONE: 281 985 0500
		20. TYPIST: IRWIN

O F F I C I A L U S E O N L Y

THIS DOCUMENT IS LOANED TO YOU FOR OFFICIAL USE ONLY AND REMAINS THE PROPERTY OF THE US CUSTOMS SERVICE. ANY FURTHER REQUEST FOR DISCLOSURE OF THIS DOCUMENT OR INFORMATION CONTAINED HEREIN SHOULD BE REFERRED TO HEADQUARTERS, US CUSTOMS SERVICE TOGETHER WITH A COPY OF THE DOCUMENT.



O F F I C I A L U S E O N L Y

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICER E P O R T O F I N V E S T I G A T I O N
C O N T I N U A T I O N

1. PAGE	2
2. CASE NUMBER	HO07QS02HO0023
3. REPORT NUMBER:	001

In November 2001, the Customs CyberSmuggling Center (C3) coordinated with the Danish National Police (DNP) in their investigation of Danish citizens Eggert and Bente JENSEN. The Jensen's were arrested after images of their nine (9) year old daughter had been posted to a newsgroup. The investigation, now known as Operation Hamlet, revealed that the JENSEN's were part of a child molestation and child pornography production and distribution ring involving suspects throughout the world. As a result of the DNP computer forensics analysis of Eggert JENSEN's computer, C3 identified several U.S. suspects, including Lloyd EMMERSON in Clovis, California.

On January 26, 2002, EMMERSON was arrested by agents from the RA/Fresno and detectives from the Clovis Police Department on charges of child abuse and production of child pornography (FC07QL02BB0004). Information gleaned from the arrest of EMMERSON resulted in the identification of an additional suspect with the user name Loltot@evl.net.

Clovis Police Department contacted Detective Mark Morgan of the Harris County Sheriff's Department to request assistance with the identification of the suspect. Detective Morgan subsequently contacted Group Supervisor J. Stephen Coffman of U.S. Customs SAIC/Houston and requested assistance with obtaining subscriber information from the Internet Provider Everyone's Internet. Senior Special Agent Robert Sherman of SAIC/Houston submitted a summons to Everyone's Internet requesting the information. The investigation was subsequently assigned to Special Agent Irwin. S/A Irwin visited Everyone's Internet, obtained the information and shared the information with Detective Morgan. The suspect was identified as Daniel BOOBAR of Houston, Texas. Original depictions of the child pornography were not available to SAIC/Houston or Harris County Sheriff's Department. Downloaded material from EMMERSON was not current, dated January 2002. Detective Morgan, at a later date, was able to obtain a search warrant via the state court system.

On August 28, 2002, after coordination with the SAIC/Houston, the Harris County Sheriff's Department executed a state search warrant at 10811 Burkes Garden Drive, Houston, TX, the residence of Daniel BOOBAR. One computer, several CD's and diskettes, and several PDA's were seized. The computer and other related indicia are currently being maintained by the Harris County Sheriff's office. BOOBAR was not arrested at the time.

Detective Norman Welsh of the Harris County Sheriff's Office is currently completing a forensic investigation of the equipment to determine if there are any depictions of child pornography. Detective Welsh continues to obtain the assistance of SAIC/Houston and C3 to effectively complete the investigation.

This investigation continues, pending the results of the forensic

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